

RULEMAKING NOTICE FORM

Notice Number

2017-37

Rule Number

**He-P 4041.02(n),(o), (eo) &
(fh), 4045.01, 4045.03(c) intro.,
4045.10 & 4070.06 Table
4070.2**

1. Agency Name & Address:

**NH Department of Health and Human Services
Division of Public Health Services
Radiological Health Section
29 Hazen Drive
Concord, NH 03301**

2. RSA Authority:

RSA 125-F:5,VI

3. Federal Authority:

4. Type of Action:

Adoption

Amendment

Repeal

Readoption

Readoption w/amendment

X

5. Short Title: **Radiation or MRI Machine Security Screening System Non-Medical**

6. (a) Summary of what the rule says and of any proposed amendments:

These rules are currently interim rules scheduled to expire April 26, 2017. Interim rules pursuant to RSA 541-A:19, I(a) were required in order to conform with a new chaptered session law effective July 1, 2016 to amend RSA 622. (SB 406) - Chapter Law 263:4 (2016) "Appropriation Department of Corrections; Scanners for State Correctional Facilities" and Chapter Law 263:6 (2016) "Appropriated Funds to the Department of Justice for Scanners for County Correctional Facilities." The proposed rules readopt the interim rule without change. The interim rules amended He-P 4041.02, 4045.01, 4045.03(c), intro., and He-P 4070.06 Table 4070.2, and adopted a new section He-P 4045.10 "Security Screening System, Non-medical." The proposed rules relate to definitions, administration and operational requirements for users, registration, training, inspections, and fees related to the use of body scanners, also known as security screening systems, non-medical, to be installed for use in the Department of Corrections state and county correctional facilities.

Security screening systems are a non-medical use of x-ray equipment that exposes the user and those individuals targeted by the screening scans to potentially harmful x-ray doses. Individuals entering and exiting the facility may be scanned including inmates, visitors, state officials, employees, contractors, vendors and others. Pursuant to RSA 125-F:5, VI and VI the Department of Health and Human Services (Department) is authorized to adopt rules relating to the control and registration of radiation machines and sources of radiation.

6. (b) Brief description of the groups affected:

Groups affected by this proposal include state and county correctional facilities using security screening systems.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

RULE	STATE OR FEDERAL STATUTE THE LAW IMPLEMENTS
He-P 4041.02(n), (o), (eo), (fh)	21 CFR 1020.30, 1020.31, 1020.32, 1020.33, 1020.40
He-P 4045.01	RSA 125-F:1, F:2, F:5 II & V
He-P 4045.03(c) intro.	RSA 125-F:1, F:2, 125-F:5, II & V; 21 CFR 1020.30, 1020.31, 1020.32, 1020.40
He-P 4045.10	RSA 125-F:1, F:2, F:5
He-P 4070.06, Table 4070.2	RSA 125-F:1, F:2, F:5, II & V

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Catherine Bernhard** Title: **Rules Coordinator**
Address: **Dept. of Health and Human Services** Phone #: **271-9374**
Administrative Rules Unit Fax#: **271-5590**
129 Pleasant St. E-mail: catherine.bernhard@dhhs.nh.gov
Concord, NH 03301

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, April 27, 2017**

☒ Fax ☒ E-mail ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, April 20, 2017 at 11:30 a.m.**

Place: [**DHHS Brown Bldg., Room 232, 129 Pleasant St., Concord, NH**](#)

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # **17:026**, dated **03/16/17**

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no cost when comparing the proposed rules to the existing interim rules.

2. Cite the Federal mandate. Identify the impact of state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To Independently owned businesses:

None.

Readopt He-P 4041.02 (n), (o), (eo) and (fh), effective 10/28/16 (Document #12024, Interim), cited and to read as follows:

He-P 4041.02 Definitions.

(n) “Backscatter” means the scattering of radiation or particles in a direction opposite to that of the incident radiation due to reflection from particles of the medium traversed.

(o) “Backscatter system” means a security screening system that makes use of radiation scattered or deflected from an object or person to form an image of the scattering object or person.

(eo) “Security screening system” means a non-medical use screening system designed for the detection of contraband and weapons concealed on a person or in a vehicle while being occupied by one or more people.

(fh) “Transmission system” means a security screening system using the conventional means of radiographic imaging in which x-rays pass through a target (e.g., person or container) and create shadow-grams of enclosed objects, such as contraband, based on their radiation attenuating properties.

Readopt He-P 4045.01, effective 10-28-16 (Document #12024, Interim), cited and to read as follows:

He-P 4045.01 Purpose. He-P 4045 establishes the administrative and operational requirements for users of radiation or MRI machines in the healing arts, veterinary medicine, and security screening systems (non-medical).

Readopt He-P 4045.03(c) intro., effective 10/28/16 (Document #12024, Interim), cited and to read as follows:

He-P 4045.03 Administrative Controls.

(c) All MRI machine and security screening system (non-medical) operators shall be able to demonstrate competence in the operation of the machine as required by (b) above, including, at a minimum, competence in the following areas:

Readopt He-P 4045.10, effective 10-28-16 (Document #12024, Interim), to read as follows:

He-P 4045.10 Security Screening System, Non-medical.

(a) All security screening systems (non-medical) shall be exempt from the requirements of He-P 4045.03(l) and (m).

(b) Radiation safety surveys shall be conducted on security screening systems upon installation and after any maintenance or incident that may have damaged the system that affects the radiation machine performance.

(c) All security screening systems (non-medical) shall follow suggested manufacturer maintenance procedures and operability checks.

(d) All maintenance and radiation survey records shall be maintained for review by DHHS/RHS during an inspection.

Readopt He-P 4070.06, Table 4070.2, category E.1.d., effective 10-28-16 (Document #12024, Interim), cited and to read as follows:

He-P 4070.06 Schedule of Annual Fees for Certificates of Registration for Radiation or MRI Machines.

Table 4070.2 Annual Fees for Radiation or MRI Machine Registration

<u>Type of Radiation or MRI Machine</u>	<u>Annual Fee</u>
E. Other circumstances	
1. Radiation or MRI machines not otherwise specified above used for the following purpose:	
d. Security Screening System (non-medical)	\$275

Appendix

RULE	STATE OR FEDERAL STATUTE THE LAW IMPLEMENTS
He-P 4041.02(n), (o), (eo), (fh)	21 CFR 1020.30, 1020.31, 1020.32, 1020.33, 1020.40
He-P 4045.01	RSA 125-F:1, F:2, F:5 II & V
He-P 4045.03(c) intro.	RSA 125-F:1, F:2, 125-F:5, II & V; 21 CFR 1020.30, 1020.31, 1020.32, 1020.40
He-P 4045.10	RSA 125-F:1, F:2, F:5
He-P 4070.06, Table 4070.2	RSA 125-F:1, F:2, F:5, II & V